



United States Department of Agriculture  
Food and Nutrition Service

Southeast Region

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**Reply to**

**Attn. of:** SERO Policy

March 15, 2004

**Subject:** Policy 210.16-06: Monitoring Requirements for School Food Authorities (SFAs)  
Contracting with Food Service Management Companies (FSMCs)

**To:** All State Directors  
National School Lunch Program  
Southeast Region

Office of Inspector General (OIG) Audit Report 27601- 0027-CH, Food Service Management Companies (FSMCs), includes two recommendations concerning monitoring requirements. This memorandum provides guidance for report recommendations Nos. 9 and 10 from the subject report. Despite regulatory requirements, the OIG audit provides sufficient documentation that some school food authorities (SFAs) are abandoning Program responsibilities either through direct delegation to FSMCs or through inadequate oversight of FSMC contracted operations. Of great concern to us is that on-site reviews failed to identify the problems found by OIG. These on-site reviews are our primary tool for identifying and correcting Program deficiencies. The failure of these reviews undermines Program integrity and places the nutritional well being of children at risk.

Report recommendation No. 9:

Require the FNS regional offices to ensure that their State agencies have procedures that ensure all SFAs who contract with management companies for food services continue to maintain reliable meal accountability systems that produce accurate monthly claims for reimbursement.

Please advise SFAs in your State that they are required to have specific procedures (210.7(c)) in place to determine the validity of meals claimed for reimbursement. Further, to ensure the validity of the meal counting and claiming systems at the schools under its jurisdiction, the SFA must conduct an annual on-site review of each school prior to February 1 of each school year (210.8(a)(1)). When that review identifies problems with a school's meal counting or claiming procedures, the SFA must ensure the school implements corrective action and within 45 days of the review, conduct a follow-up on-site review to determine if the corrective action resolved the problems. Whether an SFA self-operates its food service or uses a FSMC, the SFA must conduct this on-site review and remains responsible for ensuring deficiencies are identified and effective actions are taken to correct any deficiencies that are found.

## Report recommendation No. 10:

Require the FNS regional offices to ensure that their State agencies notify their SFAs that the SFAs are responsible for performing annual on-site reviews and evaluating the meal claim information, and that contracting with a management company does not alleviate their oversight responsibility of food program operations.

Background: In its audits of SFA and FSMC contracts, OIG found that 16 of the 24 SFAs visited failed to provide proper oversight of their food service operation and their contracted FSMCs. Despite reviews by FNS regional offices and State agencies, SFA meal accountability system deficiencies and the lack of adequate SFA oversight of FSMC operations were not identified even though serious problems were detected by the OIG in four of the seven States visited. These problems included:

1. SFAs inflating meal claims (claiming more meals than billed by the FSMCs);
2. SFAs reimbursing FSMCs for meals that were not supported by documentation;
3. SFAs failing to reconcile the number of meals claimed with the number of meals billed by the FSMCs;
4. SFAs using nonprofit food service account funds to pay unauthorized and unallowable costs billed by the FSMCs;
5. SFAs allowing all food service revenue to accrue to the FSMCs; and
6. SFAs delegating approval of student eligibility for free and reduced price meals to the FSMCs.

Please advise SFAs in your State of their responsibilities when using a FSMC:

While the National School Lunch Program regulations (210.16) permit a SFA to contract with a FSMC to manage its school food service operations, the regulations prohibit delegation of certain duties. Primary among these nondelegable duties is the SFA's responsibility to ensure that its food service operation is in conformance with the SFA's agreement under the program. By terms of its Program agreement (210.9(b)), the SFA, not its FSMC, is responsible for:

1. Observing the limitations on the use of nonprofit food service revenues account (210.9(b)(1), including using nonprofit food service account funds to pay only allowable costs regardless of the costs billed by the FSMC;
2. Determining the eligibility of children for free and reduced price meals (210.9(b)(7)); and
3. Ensuring that only reimbursable meals are included on the claim for reimbursement (210.9(b)(8)), regardless of the number of meals billed by the FSMC.

Further, SFAs may not permit the accrual of all income and expenses to the FSMC (210.16(c)).

The Part 210 regulations provide a variety of methods through which both State agencies and SFAs fulfill Program responsibilities. In addition to ensuring the SFA-FSMC contract meets program requirements (210.16), when a SFA contracts with a FSMC, the State agency is required to annually review each contract to ensure the contract meets the requirements of 210.16. Further each State agency is required to conduct an on-site review of each SFA contracting with a FSMC (210.19(a)(6)) to determine the SFA's compliance with all provisions and standards set forth at 210.16. While State agencies are encouraged to conduct this review in conjunction with the on-site administrative review required at 210.18, the State agency's on-site review of these SFA-FSMC operations must be conducted at least once every five years and be sufficient in scope to ensure compliance with 210.19(a)(6).

We want to remind each State agency of its responsibilities to have procedures in place that ensure that all SFAs maintain an adequate meal accountability system. Further, we are requesting that each State agency remind its SFAs of the annual on-site review requirement to evaluate each school's meal counting and claiming procedures and that contracting with a FSMC does not relieve an SFA of its responsibilities for meeting program requirements, including accurate meal accountability systems and submission of accurate claims for reimbursement.

Please provide this information to your SFAs and request that they take action as appropriate to ensure compliance with these critical issues of program administration.

If you have any questions regarding this matter, please contact this office.

PEGGY FOUTS  
Regional Director  
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